



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0073]

RIN 1625-AA08

Special Local Regulations; Ocean State Tall Ships Festival
2012, Narragansett Bay, Rhode Island

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations on the navigable waters of Narragansett Bay and Newport Harbor, Rhode Island, for the Ocean State Tall Ships Festival 2012.

DATES: This rule is effective from July 6, 2012 until July 10, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-0073. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor

of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Edward G. LeBlanc, Waterways Management Division at Coast Guard Sector Southeastern New England, telephone 401-435-2351, e-mail Edward.G.LeBlanc@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain Of The Port
DHS	Department of Homeland Security
FR	Federal Register
LLNR	Light List Number
NEPA	National Environmental Policy Act
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On March 23, 2012, we published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulations: Ocean State Tall Ships Festival 2012, Narragansett Bay, RI" in the Federal Register (77 FR 16974). We received no comments on the proposed rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days

after publication in the **Federal Register**. The Ocean State Tall Ships Festival 2012 begins on July 6, 2012. Delaying the effective date of this rule beyond July 6, 2012, would be contrary to the public interest in seeing the festival conducted according to schedule, and would make it more difficult for the Coast Guard to ensure the safety of vessels and spectators from hazards associated with this event.

B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1233, which authorizes the Coast Guard to define Special Local Regulations.

These temporary special local regulations are necessary to ensure the safety of vessels and spectators from hazards associated with the Ocean State Tall Ships Festival 2012.

C. Discussion of Comments, Changes and the Final Rule

No comments were received, and no changes were made to the language contained in the NPRM.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under

section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be minimal. These regulations involve only the southern portion of Narragansett Bay and will close the East Passage to commercial traffic only for several hours during the actual Parade of Sail on July 9, 2012. The West Passage will remain open to vessel traffic at all times. The impact of these regulations will not be significant because the majority of these regulations will be in effect for only a portion of one day centered on the Parade of Sail, and most vessel traffic can pass safely around affected areas of the East Passage by transiting through the West Passage, Narragansett Bay.

Notice of these special local regulations will be provided prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, Ocean State Tall Ships, Inc., will publish information of the event in local newspapers, pamphlets, internet sites, television and radio broadcasts.

Mariners will be able to adjust their plans accordingly

based on the extensive advance information.

Moreover, the Areas created by these special local regulations have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety and protection deemed necessary.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612), as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Narragansett Bay between July 6 and July 9, 2012, particularly during the Parade of Sail on July 9, 2012, when the navigation channel in the East Passage, Narragansett Bay, will be closed for a period of time to all traffic except vessels participating in the Parade of Sail.

These regulations will not have a significant economic impact on a substantial number of small entities for the

following reasons: the regulations affecting navigation in the East Passage, Narragansett Bay, will be in effect temporarily, and only for those periods of time necessary for the safety of the Ocean State Tall Ships Festival 2012 participants and spectators in boats viewing the Parade of Sail from waters adjacent to the parade route. The East Passage will remain open to all vessel traffic for the entire Festival from July 6-8, 2012, and will only be closed to vessel traffic for several hours during the Parade of Sail on July 9, 2012. While the East Passage is closed, the West Passage will remain open and capable of being used by all recreational and most commercial vessels.

Notice of these special local regulations will be provided prior to the event by Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, Ocean State Tall Ships, Inc., will publish information of the event in local newspapers, pamphlets, internet sites, television and radio broadcasts.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning

its provisions or options for compliance, please contact the person listed under FOR FURTHER INFORMATION CONTACT. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule does not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that

this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes temporary special local regulations to provide for the safety of life and property on the navigable waterways of Narragansett Bay and Newport Harbor, Rhode Island, during the Ocean State Tall Ships Festival on July 6-9 2012. This rule is categorically excluded from further review under paragraph (34)(h) of figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100 -- SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add §100.T01-0073 to read as follows:

§100.T01-0073 Special Local Regulations; Ocean State Tall Ships 2012, Narragansett Bay and Newport Harbor, Rhode Island.

(a) Regulated Areas:

(1) Area Newport Harbor: All waters of Newport Harbor within an area bounded by Aquidneck Island to the east and south; by the Goat Island Causeway to the north; and by a line extending from the southernmost tip of Goat Island due south to Aquidneck Island.

(2) Area Potter Cove: This Area is of the same coordinates as that portion of charted Anchorage A, as defined in § 110.145(a)(1) of this chapter, that lies north of the Claiborne Pell/Newport Bridge.

(3) Area Parade of Sail: Includes all waters of the East Passage, Narragansett Bay, Rhode, Island, within the following boundaries: Beginning at position 41°27'19"N, 71°23'08"W, then northward to position 41°28'18"N, 71°22'14"W, (Lighted Gong Buoy "7" (LLNR 17800)) then to position

41°28'38"N, 71°21'15"W, (Lighted Gong Buoy "9" (LLNR 17805))
then to position 41°29'00"N, 71°21'00"W, (Lighted Bell Buoy
"11" (LLNR 17810)) then to position 41°29'33"N, 71°21'04"W,
then to position 41°30'19", 71°21'04"W below the Claiborne
Pell/Newport Bridge, then to position 41°31'07"N, 71°21'17"W,
then to position 41°31'49"N, 71°21'26"W, then to position
41°32'30"N, 71°21'22"W, then to position 41°33'00"N,
71°21'17"W, then to position 41°33'38"N, 71°21'00"W, (U.S.
Navy Buoy "E" (LLNR 18035)) then to position 41°33'52",
71°20'27"W, (U.S. Navy Buoy "F" (LLNR 18040)) then to position
41°33'48"N, 71°19'55"W, (the charted Halfway Rock). Area
Parade of Sail will continue southward to position 41°33'14"N,
71°19'12.5"W, then to position 41°32'28"N, 71°19'30.6"W, then
to position 41°31'55"N, 71°19'42.7"W, then to position
41°31'00"N, 71°20'04"W, (Lighted Bell Buoy "14" (LLNR 17940))
then to position 41°30'28"N, 71°20'21"W, then to position
41°30'12", 71°20'30"W below the Claiborne Pell/Newport Bridge,
then to position 41°29'34"N, 71°20'11"W, (Mitchell Rock Gong
Buoy "3" (LLNR 17865)), then to position 41°28'55"N,
71°20'19"W, then to position 41°27'55"N, 71°21'43"W, then to
position 41°27'27"N, 71°21'57"W, (Bell Buoy "6" (LLNR 17790)),

then to position 41°26'57", 71°21'57"W, then returning to the starting point at 41°27'19"N, 71°23'08"W. All coordinates are NAD 1983.

(b) Special Local Regulations.

(1) Definitions.

(i) As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, or local officer designated by the Captain of the Port (COTP).

(ii) Excursion vessel, as used in this sections, refers to any vessel granted an excursion permit as such term is defined in 46 CFR 2.01-45.

(iii) Vessel carrying passengers-for-hire, as used in this section, refers to, but is not limited to, vessels subject to regulation under Subchapters H, K, and T of Title 46 of the Code of Federal Regulations.

(2) In accordance with the general regulations in § 100.35 of this part, entering into, transiting through, anchoring or remaining within the regulated areas is prohibited unless permitted by this rule or entry is authorized by the Captain of the Port (COTP) Southeastern New England or designated representative.

(3) All persons and vessels are authorized by the COTP

Southeastern New England to enter areas of these special location regulations in accordance with the following restrictions:

(i) Area Newport Harbor: Vessels transiting this Area must do so at a speed of at least three (3) knots or at no wake speed, whichever is more, while not exceeding six (6) knots. Vessels must not maneuver within 20 yards of a moored Tall Ship. Vessels must transit this Area in a counterclockwise direction, entering Newport Harbor from the west, then proceeding north along the eastern side of the harbor to a turning point south of the Goat Island causeway in approximate position 41°29'28"N and 71°19'40"N, then proceeding south along the western side of Newport Harbor to the exit of the Area. Vessels proceeding under sail will not be allowed in Area Newport Harbor unless also propelled by machinery, due to increased difficulty in maintaining required speed of advance while sailing as well as limited maneuvering ability to proceed in a single file behind numerous other spectator craft viewing the moored Tall Ships.

(ii) Area Potter Cove: This area is a spectator anchoring area limited to excursion and passenger-for-hire vessels greater than 50 feet in length carrying passengers for the viewing of the Parade of Sail. Vessels transiting this Area must do so at a speed of at least three (3) knots or at no

wake speed, whichever is more, while not exceeding six (6) knots. Vessels transiting this Area must not maneuver within 20 yards of any vessel lawfully anchored within this area for the viewing of the Parade of Sail.

(iii) Area Parade of Sail: This will be closed to all vessel traffic, except those vessels designated as participants.

(4) All persons and vessels shall comply with the instructions of the COTP Southeastern New England or designated representative. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means the operator of a vessel shall proceed as directed.

(5) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas must contact the COTP Southeastern New England by telephone at 508-457-3211, or designated representatives via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the COTP Southeastern New England or designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Southeastern New England or designated representative.

(6) The Coast Guard will provide notice of the regulated

areas prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. Notice will also be provided by on-scene designated representatives.

(c) Enforcement Period: This section will be enforced during the following times.

(1) Area Newport Harbor, from 6 a.m. on July 6, 2012, to noon on July 9, 2012.

(2) Area Potter Cove, from 9 a.m. to 4 p.m. on July 9, 2012.

(3) Area Parade of Sail, from 9 a.m. to 4 p.m. on July 9, 2012.

Dated: June 8, 2012

Verne B. Gifford, Jr.
Captain, U.S. Coast Guard
Captain of the Port, Southeastern New England

[FR Doc. 2012-16307 Filed 07/02/2012 at 8:45 am; Publication Date: 07/03/2012]